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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

**ORIGINAL  
FILE**

RM-8012

NTCA opposes MCI's request for several reasons. First, MCI inappropriately imputes to the non-BOC cellular industry

U.S. DEPARTMENT OF AGRICULTURE  
WASHINGTON, D.C. 20250

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characteristics that are distinct to the LEC industry, and more specifically, to the status of Bell operating companies ("BOCs") under the Modification of Final Judgement.<sup>1</sup> Secondly, MCI has not shown that sufficient customer benefits would result, if any at all, to justify the cost of providing cellular equal access-like service to IXCs. Finally, MCI's request is contrary to the Federal Government's objective of pursuing deregulatory policies in telecommunications markets where there is no compelling reason to intrude. MCI's request, if granted, would be a step backwards in that deregulatory trend.

I. MCI HAS OVERSTATED THE SIMILARITIES BETWEEN BOCs AND NON-BOC CELLULAR PROVIDERS.

MCI's request seems to be based on the opinion that the market characteristics of the LEC industry, specifically those of the BOCs, can and should be imputed to the cellular industry, and therefore, the objectives of equal access in the LEC industry naturally flow to the cellular industry. MCI has not shown that these assumptions are valid.

First, the equal access-like interconnection that the BOC affiliated cellular providers offer to IXCs is the outcome of the interexchange line-of-business restriction imposed on the BOCs as the result of a voluntary consent agreement with the Department of Justice. The MFJ agreement and the resulting restraints are the means by which the BOCs and AT&T escaped any further court

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<sup>1</sup> United States v. AT&T, 552 F. Supp. 131 (D.D.C. 1982) aff'd mem. sub nom., Maryland v. U.S., 460 U.S. 1001 (1983) ("MFJ").

action. These circumstances do not apply to the rest of the LEC industry (i.e., there is no interexchange restriction) and certainly do not apply to the cellular industry as a whole. MCI has not shown why the actions of the MFJ Court should apply to the non-BOC cellular industry.

The non-BOC cellular industry also does not share the bottleneck characteristics of the LEC exchange access market to which the Commission has previously extended equal access requirements. The reasons for extending equal access to the non-BOC LECs were rooted in the realization that access by IXCs to exchange networks was the only way, in most cases, that the IXCs could originate and terminate calls from their end user customers.<sup>2</sup> These characteristics are not relevant to the cellular industry. The provision of cellular service is a competitive market. Facilities-based carriers, as well as resellers, compete for cellular service to end users. These differences between the LEC industry and the cellular industry should not be ignored.

Finally, the distinction between exchange access and interexchange that has formed the framework for the market relationship between LECs' and IXCs' operations is not axiomatic

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<sup>2</sup> For many of NTCA member LECs, the benefits of equal access are not totally apparent. The benefits of choice among different service and price offerings in many cases has not outweighed the cost to society of providing the equal access function or the confusion to end users brought on by the balloting presubscription process.

to the cellular industry structure.<sup>3</sup> This framework is difficult, if not impossible, to apply to the cellular industry. Many cellular operators simply offer an array of telecommunications services and are free to design their own structure for how end users pay for these services. The service offerings do not necessarily have to correspond to the same point-to-point design or rate recovery structure as that which applies to the LEC/IXC industry offerings.<sup>4</sup> This lack of similarity in service and rate frameworks makes it difficult to understand what an equal access-like relationship would be for the cellular industry.

II. CUSTOMER BENEFITS, IF ANY AT ALL, WOULD NOT OUTWEIGH THE COST OF PROVIDING CELLULAR EQUAL ACCESS.

As stated above, the provision of cellular service is a competitive undertaking. Cellular providers already compete with respect to service features, one of which includes the provision of telecommunications to distant locations. Non-BOC cellular operators' extra-system telecommunications services are provided in a variety of ways, but most importantly, these arrangements often involve long distance solutions that include relationships with IXCs. That relationship promotes competition between IXCs. The "buying power" that the multiple cellular providers represent to IXCs is a healthy market condition that fosters competition

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<sup>3</sup> Exchange access and interexchange are also concepts that originally flowed from the MFJ.

<sup>4</sup> The geographical structure of Local Access and Transport Areas ("LATAs") is a creation of the MFJ and has no meaning with respect to non-BOC cellular operations.

among IXCs.

MCI also has not shown in its petition where the customer benefits are likely to arise under an equal access-like cellular arrangement. Currently, in many if not most of the markets served by non-BOC cellular providers, a BOC-affiliated cellular provider which under the terms of the MFJ must provide the equal access-like interconnection is competing with the non-BOC provider. In other words, in many markets across the country there is one cellular provider subject to the equal access-like requirement and one that is not. If equal access-like requirements lead to such substantial consumer benefits, then it would follow that, in these "mixed" markets, cellular customers would be migrating in substantial numbers to the cellular carrier that is required to provide equal access. MCI has not pointed to any evidence of this phenomena, and NTCA does not believe that this migration exists.

On a more practical note, since the number of customers served by cellular operations are typically a magnitude smaller than those of LEC operations, the cost to provide the necessary hardware and software for the equal access-like functions would be much greater on a per-customer basis than has been the cost recovery burden on users of the LEC network. Also, even if equal access-like interconnections were required, a substantial portion of cellular traffic, in the form of roamer calls, would not be accommodated with a presubscribed IXC routing feature without a

mammoth undertaking.<sup>5</sup> Furthermore, the public switched network connections that cellular operators have with LECs may not afford an equal access-like arrangement because the LEC may not be converted to equal access.

III. THE COMMISSION SHOULD NOT REVERSE ITS POLICY TO PROMOTE A COMPETITIVE MARKET FOR CELLULAR SERVICES.

The Commission has sought to foster a market structure for the cellular industry characterized by competition. One reason for this policy is the Commission's evident belief that competitive forces are more healthy and effective in governing markets than is governmental interference. NTCA submits that the cellular industry is currently operating reasonably well by relying on competition to dictate the terms and conditions of service provision. MCI has not adequately shown that any malady exists of sufficient magnitude to cause the Commission to reverse its policy direction. Without clear evidence of benefits, NTCA urges the Commission to maintain the current course of minimizing regulatory rules and requirements in areas that do not need such intervention.

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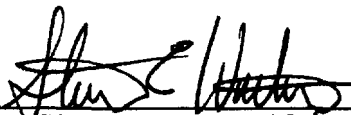
<sup>5</sup> NTCA expects that a common channel signalling solution with a national database may be required to accomplish equal access for roamer traffic.


IV. CONCLUSION

As the discussion above demonstrates, the MCI Petition does not present issues that warrant the initiation of a rulemaking proceeding. Therefore, the Commission should dismiss the request.

Respectfully submitted,

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CERTIFICATE OF SERVICE

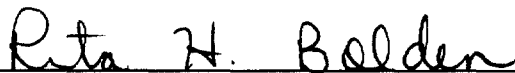
I, Rita H. Bolden, certify that a copy of the foregoing Comments of the National Telephone Cooperative Association in RM-8012 was served on this 2nd day of September 1992, by first-class, U.S. Mail, postage prepaid, to the following persons listed below:

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